

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

COREY FRANCIS,

Plaintiff,

v.

9:13-CV-0250
(GTS/RFT)

DR. DAVID PRESSER, Dental Physician,
Clinton Correctional Facility,

Defendant.

APPEARANCES:

OF COUNSEL:

COREY FRANCISE, 043-219-916
Plaintiff, *Pro Se*
Buffalo Federal Detention Facility
4250 Federal Drive
Batavia, New York 14020

HON. ERIC T. SCHNEIDERMAN
Attorney General for the State of New York
Counsel for Defendant
The Capitol
Albany, New York 12224

MICHAEL G. McCARTIN, ESQ.
Assistant Attorney General

GLENN T. SUDDABY, United States District Judge

DECISION and ORDER

Currently before the Court, in this *pro se* prisoner civil rights action filed by Corey Francis (“Plaintiff”) against the above-captioned New York State correctional employee (“Defendant”), are Defendant’s motion for summary judgment and United States Magistrate Judge Randolph F. Treece’s Report-Recommendation recommending that Defendant’s motion be granted. (Dkt. Nos. 43, 52.) Generally, in his Report-Recommendation, Magistrate Judge Treece found that the record contains no admissible evidence from which a rational fact-finder

could conclude either (1) that the delay in treating Plaintiff's cavities and tooth pain constituted an objectively serious medical condition under the Eighth Amendment or (2) that Defendant acted with reckless disregard to a known substantial risk of serious harm under the Eighth Amendment. (Dkt. No. 52, at Part II.B.) Plaintiff has not filed an objection to the Report-Recommendation and the deadline in which to do so has expired. (*See generally* Docket Sheet.)

When, as here, *no* objection is made to a report-recommendation, the Court subjects that report-recommendation to only a *clear error* review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a "clear error" review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*: *see also Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks and citations omitted).

After reviewing the file in this matter, the Court can find no clear error in the Report-Recommendation: Magistrate Judge Treece employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Court accepts and adopts the Report-Recommendation for the reasons stated therein. (Dkt. No. 52.)

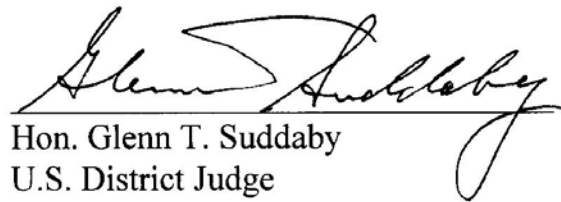
ACCORDINGLY, it is

ORDERED that Magistrate Judge Treece's Report-Recommendation (Dkt. No. 52) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

ORDERED that Defendant's motion for summary judgment (Dkt. No. 43) is **GRANTED**; and it is further

ORDERED that Plaintiff's Amended Complaint (Dkt. No. 21) is **DISMISSED** in its entirety.

Dated: March 30, 2015
Syracuse, New York



Hon. Glenn T. Suddaby
U.S. District Judge